

4/23/2019

JULIA C. DUDLEY, CLERK
BY: s/ CARMEN AMOS
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Lynchburg Division

UNITED STATES OF AMERICA,)	
)	Case No. 6:19CV00022
Plaintiff,)	
)	
v.)	
)	
LAURA E. VASSAR and)	
DAVID L. VASSAR,)	
143 Mill Ridge Lane)	
Amherst, Virginia 24521)	
)	
Defendants.)	
_____)	

COMPLAINT FOR FEDERAL TAXES

The Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury of the United States, has authorized and requested this action, and it is brought at the direction of the Attorney General of the United States under the authority of 26 U.S.C. § 7401. The United States of America complains of defendants as follows:

1. This is a civil action in which the United States seeks to reduce to judgment the unpaid assessments of personal income tax, penalties, and interest made against defendants Laura E. Vassar and David L. Vassar; and to reduce to judgment the unpaid assessments of trust fund recovery penalties and interest made against defendant Laura E. Vassar.

2. Jurisdiction is conferred on the Court by 28 U.S.C. §§ 1340 and 1345 and by 26 U.S.C. § 7402.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1396, because Laura E. Vassar and David L. Vassar reside within this district. In the alternative, venue in this

judicial district is based on 28 U.S.C. § 1396 because liability for the taxes at issue accrued in this judicial district.

4. Plaintiff is the United States of America.

5. Defendants Laura E. Vassar and David L. Vassar reside at 143 Mill Ridge Lane, Amherst, Virginia 24521, within the jurisdiction of this Court.

**COUNT I: REDUCE TO JUDGMENT THE INCOME TAX ASSESSMENTS,
PENALTIES, AND INTEREST OF LAURA AND DAVID VASSAR**

6. The United States incorporates by reference the allegations of Paragraphs 1 through 5.

7. A delegate of the Secretary of the Treasury made the following federal income tax assessments against Defendants Laura E. Vassar and David L. Vassar:

Tax Type	Tax Year	Assessment Date	Original Tax Assessed	Outstanding Balance as of 5/6/2019 (including penalties and interest)
Income – Form 1040	2008	06/04/2012	\$12,930	\$4,429.49
Income – Form 1040	2010 2010	07/04/2011 05/27/2013	\$12,246 \$5,803	\$4,723.05
Income – Form 1040	2012	09/02/2013	\$13,304	\$4,102.53
Income – Form 1040	2014	05/04/2015 01/02/2017	\$13,664 \$14,005	\$23,364.20
Total Due				\$36,619.27

8. Notice and demand for payment of the assessments described in paragraph 7 was given to Laura E. Vassar and David L. Vassar in accordance with 26 U.S.C. § 6303.

9. Statutory additions for interest and penalties have accrued and will continue to accrue on the assessments described in paragraph 7.

10. Laura E. Vassar and David L. Vassar have failed to pay the United States the full amount owed as a result of the assessments described in paragraph 7.

11. By reason of the foregoing, Laura E. Vassar and David L. Vassar are indebted to the United States in the amount of \$36,619.27, as of May 6, 2019, plus penalties, interest, and costs that will accrue after that date according to law.

WHEREFORE, The United States prays that this Court:

- A. Enter judgment for the plaintiff and against the defendants Laura E. Vassar and David L. Vassar, on Count I in the amount of \$36,619.27, plus statutory interest and penalties from May 6, 2019, until paid, together with its costs and attorney's fees, and such other and further relief as the Court deems just and proper.

COUNT II: REDUCE TO JUDGMENT THE TRUST FUND RECOVERY PENALTY ASSESSMENTS AND INTEREST OF LAURA E. VASSAR

12. The United States incorporates by reference the allegations of Paragraphs 1 through 11.

13. Laura E. Vassar has been the president and a shareholder of a business called Ellington Wood Products, Inc. from 1985 to the present.

14. During the tax periods listed in Paragraph 20, Laura E. Vassar was responsible for determining the financial policy of Ellington Wood Products, Inc. and was responsible for directing or authorizing payments to creditors.

15. During the tax periods listed in Paragraph 20, Laura E. Vassar was responsible for signing checks, authorizing payroll, authorizing Federal Tax Deposits, and preparing and signing payroll tax returns.

16. During the tax periods listed in Paragraph 20, Laura E. Vassar was responsible for collecting, truthfully accounting for, and paying over to the United States the employment taxes that were withheld from the wages of Ellington Wood Products, Inc.'s employees ("the Trust Fund Taxes").

17. Laura E. Vassar failed to collect, truthfully account for, and pay over the Trust Fund Taxes.

18. Laura E. Vassar's failure to collect, truthfully account for, and pay over the Trust Fund Taxes was willful. Upon information and belief, Laura E. Vassar was aware of Ellington Wood Product Inc.'s unpaid employment tax liabilities for the tax periods listed in Paragraph 20, but she continued to pay herself a salary and she continued to pay other creditors of Ellington Wood Products.

19. Laura E. Vassar's willful failure to collect, truthfully account for, and pay over the Trust Fund Taxes rendered her liable for a penalty equal to the total amount of the federal employment taxes not collected, accounted for, and paid over to the United States.

20. A delegate of the Secretary of the Treasury assessed federal trust fund recovery penalties ("TFRPs") against Laura E. Vassar in accordance with 26 U.S.C. § 6672, on the dates and in the amounts set forth below:

Tax Type	Tax Period Ending	Date of Assessment	Assessed Amount	Balance as of May 6, 2019
§ 6672 (TFRP)	06/30/2008	04/27/2009	\$12,549.07	\$16,377.19
§ 6672 (TFRP)	09/30/2008	03/22/2010	\$15,503.63	\$21,605.63
§ 6672 (TFRP)	12/31/2008	03/22/2010	\$9,520.28	\$13,267.32

§ 6672 (TFRP)	03/31/2009	03/22/2010	\$4,667.75	\$6,504.92
§ 6672 (TFRP)	06/30/2009	05/03/2010	\$9,429.35	\$12,451.53
§ 6672 (TFRP)	09/30/2009	05/03/2010	\$10,899.30	\$15,119.36
§ 6672 (TFRP)	12/31/2009	08/27/2012	\$10,544.94	\$13,486.92
§ 6672 (TFRP)	03/31/2010	08/27/2012	\$10,862.47	\$13,893.04
§ 6672 (TFRP)	06/30/2010	08/27/2012	\$12,340.22	\$15,783.10
§ 6672 (TFRP)	09/30/2010	08/27/2012	\$7,718.15	\$9,871.48
§ 6672 (TFRP)	12/31/2010	08/27/2012	\$3,244.26	\$4,149.39
Total:				\$142,509.88

21. Notice and demand for payment of the assessments described in paragraph 20, above, were given to Laura E. Vassar.

22. Laura E. Vassar failed to pay the assessments and accrued statutory additions for interest and, as a result, the amount owed as of May 6, 2019 will be \$142,509.88.

23. Statutory interest has accrued and will continue to accrue until paid.

WHEREFORE, The United States prays that this Court:

B. Render judgment in favor of the United States and against Laura E. Vassar in the amount of \$142,509.88 as of May 6, 2019, for unpaid assessed federal trust fund recovery penalties as set forth in paragraph 20, above, together with interest that has accrued and will continue to accrue after that date;

C. Grant the United States such further relief, including the costs of this action, which the Court deems appropriate.

Dated: April 23, 2019

THOMAS T. CULLEN
United States Attorney

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Kieran O. Carter
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CIVIL COVER SHEET

Case No. 6:19CV00022

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kieran O. Carter, U.S. Department of Justice, Tax Division
P.O. Box 227, Washington, DC 20044

DEFENDANTS

Laura E. Vassar and David L. Vassar
143 Mill Ridge Lane, Amherst, VA 24521

County of Residence of First Listed Defendant Amherst County, Virginia

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

n/a

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
26 U.S.C. 7402

Brief description of cause:
Suit to collect unpaid federal taxes and statutory additions to tax

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
179,129.15

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4/23/2019

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # N/A AMOUNT N/A APPLYING IFP N/A JUDGE Moon MAG JUDGE